

SENATE BILL 708

R4, R5

11r0641

By: **Senators Klausmeier, Ferguson, Forehand, Kelley, King, Madaleno, Manno, ~~and Stone~~ Stone, and McFadden**

Introduced and read first time: February 4, 2011

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 29, 2011

CHAPTER _____

1 AN ACT concerning

2 **Mopeds and Motor Scooters – Titling, Registration, Insurance, and Required**
3 **Use of Protective Headgear**

4 FOR the purpose of authorizing a certain insurer to exclude a moped and motor
5 scooter from certain insurance benefits; requiring a moped or motor scooter in
6 the State to be titled and registered by the Motor Vehicle Administration;
7 requiring an owner or prospective owner of a moped or motor scooter to obtain
8 or maintain certain security; requiring an application for the registration of a
9 moped or motor scooter to be submitted electronically; requiring a licensed
10 dealer of mopeds or motor scooters under certain circumstances to obtain a
11 moped or motor scooter registration application from the owner, collect
12 registration fees, and transmit the application and fees in a certain manner
13 within a certain period of time; providing for the registration classification of
14 mopeds and motor scooters; establishing an annual registration fee and
15 surcharge for mopeds and motor scooters; prohibiting an individual from
16 operating or riding on a moped or motor scooter unless the individual is wearing
17 certain protective headgear and a certain eye-protective device; authorizing the
18 Motor Vehicle Administrator to approve or disapprove certain headgear and
19 eye-protective devices and adopt and enforce certain regulations; requiring the
20 Administrator to publish a certain list; establishing that the failure of certain
21 individuals to wear certain protective headgear or a certain eye-protective
22 device may not be considered certain evidence or diminish the recovery of
23 certain damages; establishing that certain provisions relating to moped and
24 motor scooter headgear and eye-protective devices do not limit certain liabilities

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 or rights; requiring certain procedures in certain civil proceedings; providing
 2 that certain vehicle equipment and inspection requirements do not apply to
 3 mopeds and motor scooters; altering certain definitions; making certain stylistic
 4 changes and technical corrections; and generally relating to mopeds and motor
 5 scooters.

6 BY repealing and reenacting, with amendments,

7 Article – Insurance

8 Section 19–505(c)

9 Annotated Code of Maryland

10 (2006 Replacement Volume and 2010 Supplement)

11 BY repealing and reenacting, without amendments,

12 Article – Transportation

13 Section 11–134.1, 11–134.5, 13–101.1, 13–402(a)(1), 17–104(a) and (b), 21–1207,
 14 23–101(a), 23–104, 23–107(a)(1), 23–202(a)(1), and 23–206(a)

15 Annotated Code of Maryland

16 (2009 Replacement Volume and 2010 Supplement)

17 BY repealing and reenacting, with amendments,

18 Article – Transportation

19 Section 11–135, 11–176, 13–403, 13–954, ~~21–1306~~, 22–101(e)(1), 23–101(i)(3),
 20 and 23–206.2(c)

21 Annotated Code of Maryland

22 (2009 Replacement Volume and 2010 Supplement)

23 BY adding to

24 Article – Transportation

25 Section 13–939.3, 21–1306.1, and 23–206.2(c)

26 Annotated Code of Maryland

27 (2009 Replacement Volume and 2010 Supplement)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 29 MARYLAND, That the Laws of Maryland read as follows:

30 **Article – Insurance**

31 19–505.

32 (c) (1) An insurer may exclude from the coverage described in this section
 33 benefits for:

34 (i) an individual, otherwise insured under the policy, who:

35 1. intentionally causes the motor vehicle accident
 36 resulting in the injury for which benefits are claimed;

1 (a) “Motor scooter” means a nonpedal vehicle that:

2 (1) Has a seat for the operator;

3 (2) Has two wheels, of which one is 10 inches or more in diameter;

4 (3) Has a step-through chassis;

5 (4) Has a motor:

6 (i) With a rating of 2.7 brake horsepower or less; or

7 (ii) If the motor is an internal combustion engine, with a
8 capacity of 50 cubic centimeters piston displacement or less; and

9 (5) Is equipped with an automatic transmission.

10 (b) “Motor scooter” does not include a vehicle that has been manufactured for
11 off-road use, including a motorcycle and an all-terrain vehicle.

12 11–135.

13 (a) [(1)] “Motor vehicle” means[, except as provided in subsection (b) of this
14 section,] a vehicle that:

15 [(i)] (1) Is self-propelled or propelled by electric power
16 obtained from overhead electrical wires; and

17 [(ii)] (2) Is not operated on rails.

18 [(2)] (B) “Motor vehicle” includes [a]:

19 (1) A low speed vehicle;

20 (2) A MOPED; AND

21 (3) A MOTOR SCOOTER.

22 [(b)] “Motor vehicle” does not include:

23 (1) A moped, as defined in § 11–134.1 of this subtitle; or

24 (2) A motor scooter, as defined in § 11–134.5 of this subtitle.]

25 11–176.

1 (a) (1) "Vehicle" means, except as provided in subsection (b) of this
2 section, any device in, on, or by which any individual or property is or might be
3 transported or towed on a highway.

4 (2) "Vehicle" includes [a]:

5 (I) A low speed vehicle [and an];

6 (II) A MOPED;

7 (III) A MOTOR SCOOTER; AND

8 (IV) AN off-highway recreational vehicle.

9 (b) "Vehicle" does not include an electric personal assistive mobility device as
10 defined in § 21-101(j) of this article.

11 13-101.1.

12 Except as provided in § 13-102 of this subtitle, the owner of each vehicle that is
13 in this State and for which the Administration has not issued a certificate of title shall
14 apply to the Administration for a certificate of title of the vehicle.

15 13-402.

16 (a) (1) Except as otherwise provided in this section or elsewhere in the
17 Maryland Vehicle Law, each motor vehicle, trailer, semitrailer, and pole trailer driven
18 on a highway shall be registered under this subtitle.

19 13-403.

20 (a) (1) Except as provided in paragraph (2) of this subsection, the owner of
21 a vehicle subject to registration under this subtitle shall apply to the Administration
22 for the registration of the vehicle in a manner that the Administration requires.

23 (2) The application for registration of a low speed vehicle, **A MOPED,**
24 **OR A MOTOR SCOOTER** shall be made by electronic transmission under § 13-610 of
25 this title.

26 (b) The application shall contain the information that the Administration
27 reasonably requires to determine if the vehicle is entitled to registration.

28 (c) If a licensed dealer holds a low speed vehicle, **A MOPED, OR A MOTOR**
29 **SCOOTER** for sale and transfers the vehicle to a person other than another licensed
30 dealer, the dealer shall:

- 1 (1) Obtain from the transferee a completed application;
- 2 (2) Collect all fees required to register the low speed vehicle, **MOPED,**
3 **OR MOTOR SCOOTER** under this subtitle; and
- 4 (3) Within 30 days of the date of delivery of the low speed vehicle,
5 **MOPED, OR MOTOR SCOOTER,** electronically transmit the application and fees in
6 accordance with § 13–610 of this title.

7 **13–939.3.**

8 (A) **WHEN REGISTERED WITH THE ADMINISTRATION, EVERY MOPED**
9 **AND MOTOR SCOOTER IS A CLASS S (MOPED/MOTOR SCOOTER) VEHICLE.**

10 (B) **FOR EACH CLASS S (MOPED/MOTOR SCOOTER) VEHICLE, THE**
11 **ANNUAL REGISTRATION FEE IS \$35.**

12 13–954.

13 (a) In this section, “motor vehicle” means a:

- 14 (1) Class A (passenger) vehicle;
- 15 (2) Class B (for hire) vehicle;
- 16 (3) Class C (funeral and ambulance) vehicle;
- 17 (4) Class D (motorcycle) vehicle;
- 18 (5) Class E (truck) vehicle;
- 19 (6) Class F (tractor) vehicle;
- 20 (7) Class H (school) vehicle;
- 21 (8) Class J (vanpool) vehicle;
- 22 (9) Class M (multipurpose) vehicle;
- 23 (10) Class P (passenger bus) vehicle;
- 24 (11) Class Q (limousine) vehicle;
- 25 (12) Class R (low speed) vehicle; [or]

1 (13) **CLASS S (MOPED/MOTOR SCOOTER) VEHICLE; OR**

2 (14) Vehicle within any other class designated by the Administrator.

3 (b) (1) In addition to the registration fee otherwise required by this title,
4 the owner of any motor vehicle registered under this title shall pay a surcharge of
5 \$13.50 per year for each motor vehicle registered.

6 (2) \$2.50 of the surcharge collected under paragraph (1) of this
7 subsection shall be paid into the Maryland Trauma Physician Services Fund
8 established under § 19–130 of the Health – General Article.

9 17–104.

10 (a) The Administration may not issue or transfer the registration of a motor
11 vehicle unless the owner or prospective owner of the vehicle furnishes evidence
12 satisfactory to the Administration that the required security is in effect.

13 (b) The owner of a motor vehicle that is required to be registered in this
14 State shall maintain the required security for the vehicle during the registration
15 period.

16 21–1207.

17 (a) (1) If a bicycle or a motor scooter is used on a highway at any time
18 when, due to insufficient light or unfavorable atmospheric conditions, persons and
19 vehicles on the highway are not clearly discernible at a distance of 1,000 feet, the
20 bicycle or motor scooter shall be equipped:

21 (i) On the front, with a lamp that emits a white light visible
22 from a distance of at least 500 feet to the front; and

23 (ii) On the rear, with a red reflector of a type approved by the
24 Administration and visible from all distances from 600 feet to 100 feet to the rear
25 when directly in front of lawful upper beams of head lamps on a motor vehicle.

26 (2) A bicycle or bicyclist may be equipped with a functioning lamp that
27 acts as a reflector and emits a red light or a flashing amber light visible from a
28 distance of 500 feet to the rear instead of or in addition to the red reflector required by
29 paragraph (1) of this subsection.

30 (b) Subject to subsection (c) of this section, a person may operate a bicycle or
31 a motor scooter that is equipped with a bell or other device capable of giving a signal
32 audible for a distance of at least 100 feet.

33 (c) A bicycle or motor scooter may not be equipped with nor may any person
34 use on a bicycle any siren or whistle.

1 (d) Every bicycle and motor scooter shall be equipped with a braking system
2 capable of stopping from a speed of 10 miles per hour within 15 feet on dry, level, clean
3 pavement.

4 ~~21-1306.~~

5 (a) ~~This section does not apply to any [person] INDIVIDUAL riding in an~~
6 ~~enclosed cab.~~

7 (b) ~~An individual may not operate or ride on a motorcycle, MOPED, OR~~
8 ~~MOTOR SCOOTER unless the individual is wearing protective headgear that meets the~~
9 ~~standards established by the Administrator.~~

10 (c) ~~[A person] AN INDIVIDUAL may not operate a motorcycle, MOPED, OR~~
11 ~~MOTOR SCOOTER unless:~~

12 (1) ~~[He] THE INDIVIDUAL is wearing an eye protective device of a~~
13 ~~type approved by the Administrator; or~~

14 (2) ~~The motorcycle, MOPED, OR MOTOR SCOOTER is equipped with a~~
15 ~~windscreen.~~

16 (d) ~~The Administrator:~~

17 (1) ~~May approve or disapprove protective headgear and eye protective~~
18 ~~devices required by this section;~~

19 (2) ~~May adopt and enforce regulations establishing standards and~~
20 ~~specifications for the approval of protective headgear and eye protective devices; and~~

21 (3) ~~Shall publish lists of all protective headgear and eye protective~~
22 ~~devices that [he] THE ADMINISTRATOR approves, by name and type.~~

23 (e) (1) ~~The failure of an individual to wear protective headgear required~~
24 ~~under subsection (b) of this section may not:~~

25 (i) ~~Be considered evidence of negligence;~~

26 (ii) ~~Be considered evidence of contributory negligence;~~

27 (iii) ~~Limit liability of a party or an insurer; or~~

28 (iv) ~~Diminish recovery for damages arising out of the ownership,~~
29 ~~maintenance, or operation of a motorcycle, MOPED, OR MOTOR SCOOTER.~~

1 ~~(2) Subject to the provisions of paragraph (3) of this subsection, a~~
2 ~~party, witness, or counsel may not make reference to protective headgear during a~~
3 ~~trial of a civil action that involves property damage, personal injury, or death if the~~
4 ~~damage, injury, or death is not related to the design, manufacture, supplying, or~~
5 ~~repair of protective headgear.~~

6 ~~(3) (i) Nothing contained in this subsection may be construed to~~
7 ~~prohibit the right of a person to institute a civil action for damages against a dealer,~~
8 ~~manufacturer, distributor, factory branch, or other appropriate entity or person~~
9 ~~arising out of an incident that involves protective headgear alleged to be defectively~~
10 ~~designed, manufactured, or repaired.~~

11 ~~(ii) In a civil action described under subparagraph (i) of this~~
12 ~~paragraph in which [2] TWO or more parties are named as joint tort feasons,~~
13 ~~interpleaded as defendants, or impleaded as defendants, and at least [1] ONE of the~~
14 ~~joint tort feasons or defendants is not involved in the design, manufacture, supplying,~~
15 ~~or repair of protective headgear, a court shall order on a motion of any party separate~~
16 ~~trials to accomplish the ends of justice.~~

17 **21-1306.1.**

18 **(A) THIS SECTION DOES NOT APPLY TO ANY INDIVIDUAL RIDING IN AN**
19 **ENCLOSED CAB.**

20 **(B) AN INDIVIDUAL MAY NOT OPERATE OR RIDE ON A MOPED OR MOTOR**
21 **SCOOTER UNLESS THE INDIVIDUAL IS WEARING PROTECTIVE HEADGEAR THAT**
22 **MEETS THE STANDARDS ESTABLISHED BY THE ADMINISTRATOR.**

23 **(C) AN INDIVIDUAL MAY NOT OPERATE A MOPED OR MOTOR SCOOTER**
24 **UNLESS:**

25 **(1) THE INDIVIDUAL IS WEARING AN EYE-PROTECTIVE DEVICE OF**
26 **A TYPE APPROVED BY THE ADMINISTRATOR; OR**

27 **(2) THE MOPED OR MOTOR SCOOTER IS EQUIPPED WITH A**
28 **WINDSCREEN.**

29 **(D) THE ADMINISTRATOR:**

30 **(1) MAY APPROVE OR DISAPPROVE PROTECTIVE HEADGEAR AND**
31 **EYE-PROTECTIVE DEVICES REQUIRED BY THIS SECTION;**

32 **(2) MAY ADOPT AND ENFORCE REGULATIONS ESTABLISHING**
33 **STANDARDS AND SPECIFICATIONS FOR THE APPROVAL OF PROTECTIVE**
34 **HEADGEAR AND EYE-PROTECTIVE DEVICES; AND**

1 **(3) SHALL PUBLISH LISTS OF ALL PROTECTIVE HEADGEAR AND**
2 **EYE-PROTECTIVE DEVICES THAT THE ADMINISTRATOR APPROVES, BY NAME**
3 **AND TYPE.**

4 **(E) (1) THE FAILURE OF AN INDIVIDUAL TO WEAR PROTECTIVE**
5 **HEADGEAR REQUIRED UNDER SUBSECTION (B) OF THIS SECTION MAY NOT:**

6 **(I) BE CONSIDERED EVIDENCE OF NEGLIGENCE;**

7 **(II) BE CONSIDERED EVIDENCE OF CONTRIBUTORY**
8 **NEGLIGENCE;**

9 **(III) LIMIT LIABILITY OF A PARTY OR AN INSURER; OR**

10 **(IV) DIMINISH RECOVERY FOR DAMAGES ARISING OUT OF**
11 **THE OWNERSHIP, MAINTENANCE, OR OPERATION OF A MOPED OR MOTOR**
12 **SCOOTER.**

13 **(2) SUBJECT TO THE PROVISIONS OF PARAGRAPH (3) OF THIS**
14 **SUBSECTION, A PARTY, WITNESS, OR COUNSEL MAY NOT MAKE REFERENCE TO**
15 **PROTECTIVE HEADGEAR DURING A TRIAL OF A CIVIL ACTION THAT INVOLVES**
16 **PROPERTY DAMAGE, PERSONAL INJURY, OR DEATH IF THE DAMAGE, INJURY, OR**
17 **DEATH IS NOT RELATED TO THE DESIGN, MANUFACTURE, SUPPLYING, OR**
18 **REPAIR OF PROTECTIVE HEADGEAR.**

19 **(3) (I) NOTHING CONTAINED IN THIS SUBSECTION MAY BE**
20 **CONSTRUED TO PROHIBIT THE RIGHT OF A PERSON TO INSTITUTE A CIVIL**
21 **ACTION FOR DAMAGES AGAINST A DEALER, MANUFACTURER, DISTRIBUTOR,**
22 **FACTORY BRANCH, OR OTHER APPROPRIATE ENTITY OR PERSON ARISING OUT**
23 **OF AN INCIDENT THAT INVOLVES PROTECTIVE HEADGEAR ALLEGED TO BE**
24 **DEFECTIVELY DESIGNED, MANUFACTURED, OR REPAIRED.**

25 **(II) IN A CIVIL ACTION DESCRIBED UNDER SUBPARAGRAPH**
26 **(I) OF THIS PARAGRAPH IN WHICH TWO OR MORE PARTIES ARE NAMED AS JOINT**
27 **TORT-FEASORS, INTERPLEADED AS DEFENDANTS, OR IMPLEADED AS**
28 **DEFENDANTS, AND AT LEAST ONE OF THE JOINT TORT-FEASORS OR**
29 **DEFENDANTS IS NOT INVOLVED IN THE DESIGN, MANUFACTURE, SUPPLYING, OR**
30 **REPAIR OF PROTECTIVE HEADGEAR, A COURT SHALL ORDER ON A MOTION OF**
31 **ANY PARTY SEPARATE TRIALS TO ACCOMPLISH THE ENDS OF JUSTICE.**

1 (e) (1) The provisions of this title with respect to equipment on vehicles do
2 not apply to farm equipment, road machinery, road rollers, [or] farm tractors,
3 **MOPEDS, OR MOTOR SCOOTERS**, except as made applicable in this title.

4 23–101.

5 (a) In this subtitle the following words have the meanings indicated.

6 (i) (3) “Vehicle” does not include any Class L (historic) vehicle, **CLASS S**
7 **(MOPED/MOTOR SCOOTER) VEHICLE**, or [any] trailer which is a mobile home as
8 defined by § 11–134 of this article.

9 23–104.

10 (a) Every vehicle driven on the highways in this State shall, where
11 applicable, have the following equipment, meeting or exceeding the standards
12 established jointly by the Administration and the Division: brakes, steering,
13 suspension, horn, door handles, mirrors, tires, exhaust system, lights, glazing,
14 windshield wipers, odometer, speedometer, bumpers, properly aligned wheels, wheels
15 and wheel lugs, fenders, floor pans, hood, hood catches, emissions equipment, fuel
16 system, front seat, motor mounts, gear selection indicator for automatic transmissions,
17 universal joints, and seat belts or combination seat belt–shoulder harness if required
18 as original equipment under § 22–412 or § 22–412.1 of this article.

19 (b) (1) The Administration and the Division jointly may establish
20 standards by rule or regulation for this equipment.

21 (2) The Administration and the Division shall adopt, consistent with
22 federal law, regulations establishing equipment, performance, and other technical
23 standards for low speed vehicles.

24 23–107.

25 (a) (1) Before the Administration titles and registers any used vehicle, it
26 shall require the applicant to present a valid inspection certificate for the vehicle.

27 23–202.

28 (a) (1) Subject to subsection (d) of this section, the Administration and the
29 Secretary shall establish an emissions control program in the State in accordance with
30 the federal Clean Air Act.

31 23–206.

32 (a) An owner of a motor vehicle that is registered in this State shall have the
33 vehicle inspected and tested as required under this subtitle.

1 23-206.2.

2 (C) A MOPED OR MOTOR SCOOTER IS EXEMPT FROM THE MANDATORY
3 INSPECTIONS REQUIRED BY THIS SUBTITLE.

4 [(c)] (D) The Administrator may adopt regulations as necessary to
5 administer or enforce the provisions of this section.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2011.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.